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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JAMES M. ICARD,

**Plaintiff,**

No. C 13-5097 PJH

v.

ECOLAB INC.,

**ORDER GRANTING MOTION TO  
DISMISS THIRD AMENDED  
COMPLAINT**

**Defendant(s).**

12       Defendant's motion to dismiss the third amended complaint ("TAC") came on for  
13 hearing before this court on January 22, 2014. Plaintiff James M. Icard ("plaintiff")  
14 appeared through his counsel, Michael Strauss. Defendant Ecolab, Inc. ("defendants")  
15 appeared through its counsel, Peter Maretz and Arch Stokes. Having read the papers filed  
16 in conjunction with the motions and carefully considered the arguments and relevant legal  
17 authority, and good cause appearing, the court hereby GRANTS defendant's motion to  
18 dismiss for the reasons stated at the hearing. Plaintiff did not obtain defendant's consent  
19 or leave of court before filing the TAC, as required by Federal Rule of Civil Procedure  
20 15(a), and as a result, the TAC must be DISMISSED. The second amended complaint  
21 remains the operative complaint. As stated at the hearing, plaintiff may seek a stipulation  
22 from defendant regarding any amendment to the complaint, and if such a stipulation is not  
23 obtained, plaintiff may file a motion to amend the complaint.

**IT IS SO ORDERED.**

25 Dated: January 24, 2014

  
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PHYLLIS J. HAMILTON  
United States District Judge